IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT
THE HON'BLE MR JUSTICE M.H.S. ANSARI
and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 10701 of 2004

Between:
M/S .M.M.Home Appliances Dr. No.26-13-4, Gandhinagar,
Vijayawada, Krishna District represented by its Proprietor
G.Subramanyam S/o Venkateswara Rao
Aged about 38 years

.... PETITIONER

AND

The Assistant Commerical Tax Officer (Intelligence) Office of the
Commerical Tax officer, Main Bazar Circle Guntur

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction particularly in the nature of Writ of Mandamus declaring the action of the respondent in detaining the goods as also further proposed action of seizure and confiscation by notices dated 27-11-2003 and 27-01-2004 addressed to the transporter which are covered by proper invoices and way bills prescribed under the respective Sales Tax Laws, in respect of as illegal, arbitrary, without authority of law and without jurisdiction and ultra vires the provisons of the APGST Act, 1957 as 30 Nos. of C/B Mini Grinders purchased from M/s Sri Venkatalakshmi Provision Tools, Coimbatore in the State of Tamilnadu vide invoice no.31, dated 24-11-2003 and L.R.Nos.211673/30, dated 24-11-2003, 30 Nos of Frames and 6 nos of Beds and 5Nos.of G/P Spares (Grinder Spares) purchased from M/s Sri Durgambigal, Coimbatore in the State of Tamilnadu vide invoice

no.31, dated 22-11-2003 and L.R.No.211666/41, dated 22-11-2003, 3 Nos. of C/B Repaired Motors from M/s Marvel, Coimbatore in the State of Tamilnadu vide L.R.No.211662/3 dated 21-11-2003 as also 5 Nos. of C/B Motors purchased from M/s Saran Engineering, Coimbatore in the State of Tamilnadu vide invoice no.44, dated 27-11-2003 and L.R.No.211664/5, dated 22-11-2003 and consequently direct the release of the goods and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case

Counsel for the Petitioner : MR.M.V.J.K.KUMAR

Counsel for the Respondent: GP FOR COMMERCIAL TAX

The Court made the following :

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ORDER: ***(Per Hon'ble Sri Justice M.H.S.Ansari)***

Keeping in view the interim orders passed by this Court reference to which shall be made hereafter, we are of the view that the instant writ petition can and needs to be disposed of with certain appropriate directions:

2. Petitioner had questioned the detention notice dated 27.11.2003 and the notice dated 27.01.2004, whereby the respondent authority proposed to seize and confiscate the goods under Section 29(6)(B) of the A.P.G.S.T Act. This was on the ground that the consignment was allegedly not accompanied by proper valid documents and thereby opinion was formed by the respondent authority that the petitioner intended to evade sales tax. Detention Notice dated 27.11.2003 was issued and subsequently, notice under Section 29(6)(B), dated 27.01.2004 was issued for seizure and confiscation of goods.

3. When the matter was listed before Court on 28.06.2004, while directing Notice before Admission, an interim order was passed to the effect that if no confiscation order is passed, it would not be passed until further orders. Thereafter, by order dated 5.7.2004, while enlarging time to file counter affidavit, it was directed that if no order of confiscation is passed, the goods be released on payment of tax.

4. It is the submission of the learned counsel for the petitioner before us that the goods have been released on payment of tax. Further order pursuant to impugned notice has not been passed, apparently because of the interim orders subsisting. In such view of the matter, without going into the merits of the contentions raised as to the legality or validity of the impugned notice of seizure and confiscation, we are inclined to dispose of the writ petition with a direction that it will be

open to the respondent authority to pass such appropriate orders as may be open to it in law, with respect to the impugned notices.

5. The writ petition accordingly stands disposed of. No order as to costs.

M.H.S.ANSARI, J

T.CH.SURYA RAO, J

Dated: 21.02.2005

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To
The Assistant Commerical Tax Officer (Intelligence) Office of the Commerical Tax officer, Main Bazar Circle Guntur

2) 2 CCs to G.P for Commercial Tax, High Court Bldgs, Hyd.(OUT)

3) 2 CD copies.